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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,982	12/05/2001	Koichiro Nagare	Q67256	1346
23373	7590	08/10/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			KEYS, ROSALYND ANN	
			ART UNIT	PAPER NUMBER
			1621	

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/001,982	NAGARE, KOICHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rosalyn Keys	1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/13/02 &amp; 5/24/02</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Status of Claims***

1. Claims 1-7 are pending.  
Claims 1-7 are rejected.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

3. The information disclosure statements filed February 13, 2002 and May 24, 2002 have been considered.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirata et al. (EP 0 989 109).

Hirata et al. teach 80% aqueous solutions of a polyethylene glycol methacrylic

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acid ester (see examples 4, 15 and 16 and Table 2). The 80% aqueous esterified product was stored in the reflux condenser. The 80% aqueous esterified product is then used as a raw material to make a polycarboxylic acid, which is used as a cement dispersant.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata et al. ((EP 0 989 109).

Hirata et al. disclose a mixture containing 240 parts water and the cement dispersant polycarboxylic acid (2) (see examples 15 and 16).

Hirata et al. do not specifically teach that this mixture is stored and/or

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transferred prior to being added to the cement composition. However, one having ordinary skill in the art at the time the invention was made would have found it obvious that the cement dispersent polycarboxylic acid (2) was made at a different location from the cement composition. Thus, the artisan would have needed to transport the cement dispersent polycarboxylic acid (2) to the remaining ingredients in order to make the cement composition. Thus, there would have been a need to store the cement dispersent polycarboxylic acid (2) for transport.

9. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knebel et al. (6,040,473) in view of Hirata et al. (EP 0 989 109)

Knebel et al. teach a 50% aqueous solution of an alkoxy polyglycol(meth)acrylate (see column 4, line 25 to column 5, line 43). These compounds are disclosed as having dispersent effects (see column 1, lines 13-17).

Knebel et al. do not teach that the 50% aqueous solution of the alkoxy polyglycol(meth)acrylate is stored and/or transferred. However, since it is known to be useful as a dispersent, one having ordinary skill in the art at the time the invention was made would have found it obvious to store the 50% aqueous solution of alkoxy polyglycol(meth)acrylate obtained by Knebel et al. in a container for transport to the place where it is to be used as a dispersant.

Although Knebel et al. teach that the alkoxy polyglycol(meth)acrylates have use as a dispersant, Knebel et al. fail to teach that it is useful as a cement dispersent.

Hirata et al. teach an alkoxy polyalkylene glycol mono(meth)acrylic ester type monomer component which forms a raw material for a polymer component to be used in cement dispersants (see page 2, lines 16-20).


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One having ordinary skill in the art at the time the invention was made would have found it obvious to utilize the alkoxy polyglycol(meth)acrylate of Knebel et al. as a raw material for the production of cement additives, since Hirata et al. teach that these compounds are useful as a raw material for a polymer component useful as a cement dispersant.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosalynd Keys whose telephone number is 571-272-0639. The examiner can normally be reached on M, R and F 3:30-8:30 pm and T-W 5:30-10:30 am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Rosalynd Keys  
Primary Examiner  
Art Unit 1621

August 9, 2004